

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Michael L. **WEINER**

GROUP: 3762

SERIAL NO: 10/598,088

EXAMINER: S. Getzow

FILED: August 17, 2006

CONFIRMATION: 9951

**FOR: BIO-FUNCTION MONITORING AND PREVENTIVE SYSTEM AND
METHODOLOGY THEREOF**

**Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450**

Sir:

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER
AN ISSUED US PATENT**

The Assignee, **Biophan Technologies, Inc.**, of one hundred (100) percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of **US Patent 7,020,517** as the term of said **US Patent 7,020,517** is defined in 35 U.S.C. §154 to §156 and §173, and as the term of said US Patent 6,765,144 is presently shortened by any terminal disclaimer. The Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and said **US Patent 7,020,517** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of said **US**

Patent 7,020,517, as shortened by any terminal disclaimer, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is an attorney or agent of record.



Signature

November 3, 2008
Date

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